

P-999/CI-92-868 ORDER CLARIFYING APPLICATION OF DEPOSIT STANDARDS
AND SETTING REQUIREMENTS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Cynthia A. Kitlinski
Dee Knaak
Norma McKanna

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Commission
Initiated Investigation into the
Advance Payment Policies of
Minnesota Telephone Companies

ISSUE DATE: April 1, 1993

DOCKET NO. P-999/CI-92-868

ORDER CLARIFYING APPLICATION OF
DEPOSIT STANDARDS AND SETTING
REQUIREMENTS

PROCEDURAL HISTORY

In 1992, the Commission became aware that some Minnesota telephone companies are requiring advance payments as an assurance of payment from customers who have not established good credit with the companies. The Commission noted that in some cases the companies requiring advance payments may in effect be requiring deposits, without adhering to Commission deposit rules, Minn. Rules, parts 7810.1500 - .1700.

On September 2, 1992, the Commission issued a Notice of Comment Period to all Minnesota telephone companies. In that Notice the Commission pointed out the standards governing customer deposits found in Minn. Rules, part 7810.1500. The Commission stated that it intends to apply Minnesota deposit collection standards to all situations in which a telephone company is requiring an assurance of payment due to a customer's credit status. The same standards would apply, whether the required payment is called a deposit, an advance payment, or anything else. The Commission also solicited comments regarding the advance payment issue. The Notice directed all telephone companies to submit written comments within 30 days; the comments should identify their prepayment practices and include all written policies for the collection of such payments.

Copies of written prepayment policies were filed by 58 telephone companies. In addition, comments on the advance payment issue were received from the Department of Public Service, Interstate Telecommunications Cooperative, Telecommunications Marketing Association and the Interexchange Resellers Association, and WilTel, Inc.

The Commission met to consider this matter on March 23, 1993.

FINDINGS AND CONCLUSIONS

I. Types of Current Advance Payment Policies

Of the 58 telephone companies who filed copies of their advance payment policies, the majority indicated that they do not have any advance payment requirement related to customers' credit status. The other companies, however, have a variety of advance payment policies.

Eight of the telephone companies have a policy which allows them to require an advance payment, at their unlimited discretion.

Four of the telephone companies have a written policy which includes a \$40.00 advance payment, as well as a \$75.00 deposit, if the customer has never had telephone service before, or cannot provide a good customer certificate from a former telephone company.

The rest of the telephone companies have individual prepayment policies. For example, one local exchange company requires a \$50.00 deposit of every customer at the time initial telephone service is ordered. Another telephone company uses a credit check from a previous provider for every new customer. If the applicant has never had telephone service, the telephone company asks if the applicant has a paid up bank loan or a bank loan with at least twelve consecutive payments. If the applicant has such a loan, the applicant must obtain a letter of credit from the bank. Another local exchange company alternately calls its required prepayment an "advance" and a "deposit." It is required of customers who have been in business less than a year, or who show poor utility credit history.

II. Comments Received

In its comments, the Department argued that advance payments required by telephone companies are distinct from deposits or guarantees. The Department believes that applying Commission deposit standards to all forms of advance payments would cause local exchange companies to pay interest on advance payments and to stop requiring advance payment for all local exchange service. According to the Department, these changes would have an impact on revenues for local exchange companies. Applying deposit standards only to advance payments linked to credit status would reduce the revenue impact.

The Interstate Telecommunications Cooperative protested what it considered an expansion of the Commission's regulatory oversight. The ITC argued that the regulatory expansion is happening at a time when competitive forces in the telecommunications industry are prompting deregulation.

The Telecommunications Marketing Association/Interexchange Resellers Association (TMA/IRA) urged the Commission to limit its application of deposit standards to advance payments linked to credit status. The TMA/IRA stated that telephone companies should not be restricted from collecting payments in advance of service when the payments are necessary and are uniformly required of all subscribers.

WilTel, Inc. (WilTel) recommended that the Commission distinguish between residential and commercial service in its advance payment policy. WilTel stated that in most cases, deposits are sufficient to secure the company when residential service is offered. When serving commercial entities, however, companies may need advance payments as well as deposits in order to be adequately secured. In these cases, Commission deposit rules, including the payment of interest, would apply.

III. Commission Analysis

The deposit and guarantee standards in Minn. Rules, parts 7810.1500 - .1700 were written to protect the interests of both consumers and telephone companies. The rules are meant to prevent telephone companies from implementing unfair, harsh, or discriminatory customer prepayment policies. When deposits are allowed, their use is limited and the payment of interest is required of the company. At the same time, the rules provide a framework within which a telephone company may legitimately protect its interests when dealing with a risky credit situation.

The Commission remains committed to these protective standards. While the Commission recognizes that the telecommunications industry is moving towards deregulation in some areas, regulatory protections such as the deposit standards remain viable and important.

The results of the Commission's comment period show there is still cause for concern regarding prepayment practices. While the majority of telephone companies are complying in form and spirit with the deposit standards, some companies are not. There are clearly problems in certain areas, such as the lumping together of advance payments and non-recurring charges, unclear distinctions between deposits and advance payments, and failure to comply with deposit standards.

In order to address these problems, the Commission will first clarify the extent of its application of deposit standards. The Commission will continue to apply the standards found in Minn. Rules, parts 7810.1500 - .1700 to every situation in which a prepayment is exacted because of a customer's credit status, whether the prepayment is labeled a deposit, an advance payment, or anything else. Deposit standards will not be applied to situations in which advance payments are required of all applicants, and are not linked in any way to credit status. The

Commission strongly believes that application of the deposit standards in this manner is the best means of protecting the interests of both consumers and telephone companies.

To ensure that the prepayment problems uncovered in this investigation are addressed, the Commission will require the following:

1. All Minnesota telephone companies must review their credit policies and revise them where necessary to reflect the standards established in Minn. Rules, parts 7810.1500 - .1700;
2. All Minnesota telephone companies must separate all non-recurring charges, such as service order charges, construction charges, or any other non-credit related charges, from charges which are labeled deposits or advance payments;
3. All telephone companies who revise their written policies in response to the two requirements above must submit their revised written policies to the Department. The Department will review their filings to determine if they comply with Commission rules and this Order.

ORDER

1. The Commission's application of deposit standards is clarified as follows:

The Commission will continue to apply the standards found in Minn. Rules, parts 7810.1500 - .1700 to every situation in which a prepayment is exacted because of a customer's credit status, whether the prepayment is labeled a deposit, an advance payment, or anything else. Deposit standards will not be applied to situations in which advance payments are required of all applicants, and are not linked in any way to credit status.

2. All Minnesota telephone companies must review their credit policies and revise them where necessary to reflect the standards established in Minn. Rules, parts 7810.1500 - .1700;
3. All Minnesota telephone companies must separate all non-recurring charges, such as service order charges, construction charges, or any other non-credit related charges, from charges which are labeled deposits or advance payments;

4. All telephone companies who revise their written policies in response to the two aforementioned requirements must submit their revised written policies to the Department. The Department will review their filings to determine if they comply with Commission rules and this Order.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)